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Date 12-3-91

Signature [REDACTED]

OCT 17 1991

12/4/91

Dear Sir or Madam:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(7).

The information submitted indicates that you were incorporated under the laws of the state of [REDACTED] on [REDACTED]. Your Articles of Incorporation state that your purposes are "to provide for the maintenance, management, preservation and architectural control of that certain boatominium project known as [REDACTED]...; and to promote the health, safety, welfare, social and recreational activities and moral well being of your members..."

Each of your members owns an undivided interest in the common areas and facilities at [REDACTED] (the "Marina"). Each membership includes the exclusive right to occupy, possess and lawfully use a designated boat slip at the Marina subject to the provisions of the By-Laws and rules and regulations promulgated by the Board of Directors.

You have two classes of voting rights. All members with the exception of [REDACTED], have Class I voting rights which entitle such members to one vote in the affairs of the Marina for each membership owned. If more than one person, firm or entity holds an interest in any membership, the vote of that membership is exercised as the persons, firms or entities holding interest in that membership determine, but in no event is more than one vote cast with respect to any such membership.

[REDACTED] has Class II voting rights, which entitle it to three votes for each membership owned. Class two voting rights shall be converted to Class I voting rights on the occurrence of either of the following events:

(a) When the Total Class I votes outstanding equal the total Class II votes outstanding; or

(b) On [REDACTED]

You currently have [REDACTED] Class I members and 1 Class II member. The Class II member owns [REDACTED] memberships representing a [REDACTED] interest in the facility.

Your income is derived from assessments on the membership. The assessment against each member is determined according to the size of the boat slip to the use of which each such member is entitled. Your expenditures are for the maintenance and preservation of the property of the corporation and/or the members including all bulkheads, docks, piers, pilings, and other facilities, and for other costs of operating the Marina such as utilities, trash removal, pest control, insurance premiums, and accounting and legal fees.

Section 501(c)(7) of the Code provides for the exemption from federal income tax of clubs organized and operated for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Rev. Rul. 65-219, 1965-2 C.B. 168, provides that a club which is operated as an integral part of a commercial venture for the financial benefit of private individuals is not exempt under section 501(c)(7) of the Code.

Rev. Rul. 69-281, 1969-2, C.B. 155 holds that a club whose membership is limited to homeowners in a housing development and that provides recreational facilities that afford opportunities for fellowship and social commingling is exempt from federal income tax under section 501(c)(7) of the Code.

Rev. Rul. 75-594, 1975-2 C.B. 214 holds that a club providing social and recreational facilities whose membership is limited to homeowners of a housing development, will be precluded from qualifying for exemption under section 501(c)(7) of the Code by owning and maintaining residential streets, enforcing restrictive covenants, or providing residential fire and police protection and trash collection service.

Although there is no statutory definition of "club" as used in section 501(c)(7) of the Code, it implies the existence of personal contact, commingling, and fellowship among members. Generally, the lack of commingling of members is an indication that the basic purpose of the organization is not social or recreational. Thus, the flying club described in Rev. Rul. 70-32, supra, did not qualify for exemption.

[REDACTED]

The information provided does not establish that you have an organized social or recreational program or that there is commingling of your members that is other than incidental. In addition, you are, at the present time, operated as an integral part of a commercial venture of [REDACTED]. As such, the sale of new memberships inures to the benefit of [REDACTED].

Further, you are engaged in activities directed toward the maintenance and management of Marina property. As noted in Rev. Rul. 75-594, a community association that also provides services needed by the members as residents in a particular community is not a social club within the meaning of section 501(c)(7).

Accordingly, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(7) of the Code and are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office.

[REDACTED]

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [REDACTED]. These symbols do not refer to your case but rather to its location.

Sincerely yours,

(signed) [REDACTED]

[REDACTED]
Chief, Exempt Organizations
Rulings Branch 2

✓ cc: [REDACTED] 2/10/92 [REDACTED]

cc: [REDACTED]

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